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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14 UNITED STATES OF AMERICA,)	Case No. CV 09-00114-MMM(JCx)
15 Petitioner,)	
16 vs.)	[PROPOSED]
17 MARTIN KAPP,)	<u>ORDER TO SHOW CAUSE</u>
18 Respondent.)	
19 _____)	

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21 Upon the Petition and supporting Memorandum of Points and Authorities,
22 and the supporting Declaration to the Petition, the Court finds that Petitioner has
23 established its *prima facie* case for judicial enforcement of the subject Internal
24 Revenue Service ("IRS" and "Service") summons. *See* United States v. Powell,
25 379 U.S. 48, 57-58, 85 S. Ct. 248, 13 L. Ed. 2d 112 (1964); *see also*, Crystal v.
26 United States, 172 F.3d 1141, 1143-1144 (9th Cir. 1999); United States v. Jose,
27 131 F.3d 1325, 1327 (9th Cir. 1997); Fortney v. United States, 59 F.3d 117, 119-
28 120 (9th Cir. 1995) (the Government's *prima facie* case is typically made through

the sworn declaration of the IRS agent who issued the summons); *accord*, United States v. Gilleran, 992 F.2d 232, 233 (9th Cir. 1993).

Therefore, **IT IS ORDERED** that Respondent appear before this District Court of the United States for the Central District of California, in Courtroom No. _____,

☐ United States Courthouse
312 North Spring Street, Los Angeles, California, 90012

☒ Roybal Federal Building and United States Courthouse
255 E. Temple Street, Los Angeles, California, 90012

☐ Ronald Reagan Federal Building and United States Courthouse
411 West Fourth Street, Santa Ana, California, 92701

☐ Brown Federal Building and United States Courthouse
3470 Twelfth Street, Riverside, California, 92501

on February 23, 2009, at 10:00 AM,

and show cause why the testimony and production of books, papers, records, and other data demanded in the subject Internal Revenue Service summons should not be compelled.

IT IS FURTHER ORDERED that copies of this Order, the Petition, Memorandum of Points and Authorities, and accompanying Declaration be served promptly upon Respondent by any employee of the Internal Revenue Service or the United States Attorney's Office, by personal delivery or by certified mail.

IT IS FURTHER ORDERED that within ten (10) days after service upon Respondent of the herein described documents, Respondent shall file and serve a written response, supported by appropriate sworn statements, as well as any desired motions. If, prior to the return date of this Order, Respondent files a response with the Court stating that Respondent does not desire to oppose the relief sought in the Petition, nor wish to make an appearance, then the appearance of Respondent at

1 any hearing pursuant to this Order to Show Cause is excused, and Respondent
2 shall be deemed to have complied with the requirements of this Order.

3 **IT IS FURTHER ORDERED** that all motions and issues raised by the
4 pleadings will be considered on the return date of this Order. Only those issues
5 raised by motion or brought into controversy by the responsive pleadings and
6 supported by sworn statements filed within ten (10) days after service of the herein
7 described documents will be considered by the Court. All allegations in the
8 Petition not contested by such responsive pleadings or by sworn statements will be
9 deemed admitted.

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11 DATED: January 13, 2009

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15 UNITED STATES DISTRICT JUDGE

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17 Presented By:

18 THOMAS P. O'BRIEN
19 United States Attorney
20 SANDRA R. BROWN
21 Assistant United States Attorney
22 Chief, Tax Division

23 DARWIN THOMAS
24 Assistant United States Attorney

25 Attorneys for the United States of America,
26 Petitioner
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